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| Issued Date: 01-31-20 | Effective Date: 01-31-20 | Updated Date: |
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SUBJECT: CUSTODY DISPUTES INVOLVING CHILDREN

1. POLICY

- A. To protect the best interest of children who become the subject of a custody dispute.
 - B. To instruct police officers in the proper procedures to be taken in order to temporarily settle custody disputes.
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2. DEFINITIONS

- A. Custody Order –A civil judicial order concerning the care, control, and maintenance of a child. These orders typically specify one parent or guardian as the “custodial” parent or guardian and provides for visitation rights and responsibilities of the “non-custodial” parent or guardian. These orders are most commonly issued when there is no immediate risk to the health and safety of the minor. These are civil orders that are enforceable by the Philadelphia Sheriff’s Office through the Pennsylvania Court of Common Pleas, Family Division.
- B. Protection from Abuse and Custody Order – A civil order whereby an independent magistrate has determined that the immediate health, safety, and welfare of a minor child is at risk and assigns full temporary custody to the plaintiff’s parent or guardian. These orders are enforceable by law enforcement agencies.
- C. Child Abuse/Neglect – Any form of cruelty, intentional or unintentional to a child’s physical, moral, or mental status that endangers the overall welfare of a child. This term includes those acts of child neglect whereby an individual charged with the care of a child fails to provide reasonable food, clothing, and shelter to a child. Also included is the failure by one charged with the care of a child to use prudent, reasonable care in exercising their parental duties, which endanger the welfare of the child.
- D. “At Risk” – When facts and circumstance exist whereby the officer reasonably believes that the immediate health, safety, and/or welfare of a child is threatened or in jeopardy.

3. PROCEDURE

A. Patrol Officer:

1. After the verification of a founded custody dispute, request the presence of a supervisor, if not already dispatched. The officer and supervisor will investigate to ensure the child is not “at risk” or in a missing person status.
2. If the child is at risk, the officer shall take immediate and appropriate police action.
 - a. Ensure hospitalization, when necessary.
 - b. Contact the Department of Human Services (DHS) (215) 683-6100, with all the pertinent information and circumstances concerning the incident (condition of residence, parent/guardian, and child) and be guided by the directions given by personnel from DHS.

NOTE: If abuse or neglect is suspected but not immediately evident, thus precluding immediate police action, the information regarding the incident shall be forwarded to DHS for further investigation.

- c. A 75-48 will be prepared with all facts and circumstances, including the pertinent information from any Custody Order as well as the name of the individual contacted at DHS.
3. If the child is not at risk and a Custody Order exists:
 - a. The officer and supervisor should review the order before attempting to mediate the situation. Often these orders are unclear, and difficult to decipher. Any questions should be referred to the supervisor on location.
 - b. Regardless of any written Custody Order, the officer should not disturb the physical custody of the child. The officer will not personally, nor at the complainant’s direction have the child delivered to the complaining or another party.
 - c. A 75-48 will be prepared with all facts and circumstances including the pertinent information of any Custody Order.
 - d. If one of the parties is in apparent violation of a Custody Order and the situation cannot be mediated, the complainant will be transported to the divisional detectives to initiate possible criminal charges.

- e. If possible, both parties should also be referred to the Custody Unit of Family Court, 1501 Arch Street, (215) 686-7466.
4. If the child is not at risk and no Custody Order exists:
- a. The officer and supervisor should try to mediate the situation in the best interest of the child. Under these circumstances, each parent has the same rights to the child.
 - b. The police will not remove the child.
 - c. The parents or guardians will be referred to the Custody Unit of Family Court, 1501 Arch Street, (215) 686-7466 and a 75-48 will be prepared.
5. Protection from Abuse Orders and Custody:
- a. If an Emergency, Temporary, or Final Protection from Abuse Order grants custody of any minor(s), the court has already determined that the safety of the child at risk. These orders shall supersede any existing Custody Order or arrangement. Police officers are authorized by law to enforce such orders and take whatever police action may be necessary. The officer will only deliver the child to the party granted emergency custody. If that parent or guardian granted custody is not present or able to receive the child, the officer will transport the child to the DHS for safeguarding until such time as the plaintiff parent/guardian can take custody.

B. Patrol Supervisor:

- 1. Will respond to all founded custody disputes.
- 2. Will ensure that the child is not the subject of abuse, neglect or in a missing person status.
- 3. Ensure the procedures in Section 3 are carried out.

C. Assigned Investigator (if applicable):

- 1. Will investigate those cases where a parent or guardian appears to be in violation of a Custody Order to determine whether probable cause exists to charge Kidnapping, Interference with the Custody of Children, or other offense.

D. Police Radio:

- 1. Will dispatch a patrol supervisor to all founded custody disputes.

RELATED PROCEDURES: Directive 3.9, Domestic Abuse and Violence
Directive 3.26, Protection from Sexual Violence
or Intimidation (PSV/PFI) Orders

BY COMMAND OF THE POLICE COMMISSIONER



APPENDIX "A"

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**SUBJECT: DEPARTMENT OF HUMAN SERVICES (DHS) VERBAL PROTECTIVE ORDERS
PLEAC 2.7.3**

1. PURPOSE

- A. The Philadelphia Court of Common Pleas, Family Division (Family Court), issues "removal orders" whenever it is determined that children are in imminent or potential danger, should they remain in their current residence. In most instances, these orders are provided in written format and clearly indicate when the Philadelphia Police Department (PPD) is to assist the Department of Human Services (DHS) in such operations.
 - B. However, during non-business hours, weekends, and holidays, such orders may be issued verbally to DHS workers, until a written order may be issued on the following business day.
 - C. Therefore, the purpose of this appendix is to establish a procedure to sufficiently document verbal orders and to provide officers with verifiable authority to take the necessary police action to ensure the health, safety and welfare of children.
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2. POLICY

It is the policy of the PPD that personnel shall collaborate and cooperate with DHS in an effort to safeguard the best interests of those children in imminent danger, as identified by the Family Court.

3. PROCEDURE

- A. DHS Worker shall:
 - 1. Complete an "Affidavit of Verbal Order of Protective Custody (VPO)" upon receipt of a verbal order from the Court of Common Pleas for the PPD to assist in the removal of a child from a residence. (See attached sample Affidavit at the end of this appendix).
 - 2. Contact Police Radio at Redacted- law enforcement sensitive and request that a

police officer and a supervisor be dispatched to meet the DHS worker to serve the VPO.

3. Present a signed copy of the “Affidavit of Verbal Order of Protective Custody” to the officer on the scene.
4. On the next business day of the Court, ensure that a written order is obtained from the Court and emailed to, Redacted- law enforcement sensitive of the PPD Special Advisor’s Office.

B. Police Radio shall:

1. Dispatch two (2) police officers and a supervisor to meet the DHS worker, upon receiving a request from the DHS worker to serve a VPO.
2. Ensure at least one (1) officer is equipped with a body-worn camera due to the sensitive nature of these assignments. In the event that the district of occurrence is not equipped with BWCs, a BWC officer from the nearest adjoining district shall be dispatched to the scene.

C. Police Supervisor shall:

1. Verify the employee identification of the DHS worker, review the “Affidavit of Verbal Order of Protective Custody” and ensure that it is completed and signed by the DHS worker.
2. Assist in serving the VPO and in removing the child from the residence.

D. Officer shall:

1. Consult with the supervisor on location prior to taking any police action with respect to a VPO.
2. Take the necessary actions to assist DHS in removing the child from the residence once the “Affidavit of Verbal Order of Protective Custody” has been reviewed and approved by a supervisor.

NOTE: The child shall be transferred as soon as possible to the care of the DHS worker, if removed by police.

E. Reporting:

1. A 75-48 shall be completed with all available information. If an arrest has occurred, the 75-48 will be properly coded in accordance with the Philadelphia Incident Classification Manual; otherwise the 75-48 shall be coded 3616- Reports Affecting Other City Departments.

2. In the event that damage is sustained to any private property during the course of enforcing an order, a separate 75-48 shall be completed and properly coded 3107-Damage to Private Property – No Arrest. The complainant shall also be advised of the procedure to file a claim with the Risk Management Office as detailed in Directive 3.3, Appendix A “Accidental and/or Intentional Damage to Private Property during the course of Official Police Actions.”
3. All body-worn camera footage shall be properly uploaded and tagged in accordance with Directive 4.21 “Body-Worn Cameras.”

BY COMMAND OF THE POLICE COMMISSIONER



In the Matter of:

| | | |
|--|---|------------------------------|
| _____ | : | COURT OF COMMON PLEAS |
| <i>(Child's name and date of birth)</i> | : | PHILADELPHIA COUNTY |
| _____ | : | FAMILY COURT DIVISION |
| <i>(Child's name and date of birth)</i> | : | |
| _____ | : | |
| <i>(Child's name and date of birth)</i> | : | |
| _____ | : | |
| <i>(Child's name and date of birth)</i> | : | |
| _____ | : | |
| <i>(Name of parents or guardians)</i> | : | |
| _____ | : | |
| <i>(Name of parents or guardians)</i> | : | |
| _____ | : | |
| <i>(Address from which child is to be removed)</i> | : | |

AFFIDAVIT OF VERBAL ORDER OF PROTECTIVE CUSTODY

- I, _____, being an authorized Department of Human Services (DHS) Worker, am authorized to make this affidavit.
(Print name and payroll number)
- Pursuant to the Pennsylvania Juvenile Act, a Judge of the Court of Common Pleas has verbally ordered that the above-named child must be removed from the address identified above and placed into the protective custody of the Philadelphia Department of Human Services in that it has been determined that to allow the child to remain in the home of the parent, guardian or custodian is contrary to the health, safety and welfare of the child.
- The Honorable Judge _____ on _____ has ordered the Philadelphia Police Department assist with the removal of the child and has found that there is probable cause to enter the above address and deliver said child to the custody of the Philadelphia Department of Human Services.
(Print name of Judge) *(Insert date of verbal Order)*
- I hereby verify that the statements made in the foregoing are true and correct to the best of my knowledge, information and belief and understand that the statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsifications to authorities.

Signature of DHS Social Work Services Manager

_____ *Work Email Address* _____ *Phone Number*

_____ *Name of DHS SWSM Supervisor* _____ *Phone Number*